

Application No. 10/613,608  
Attorney Docket No.: LS-001

PATENT

### REMARKS

Claims 1 to 11 were pending in the present application.

Claims 1 to 16 will be pending upon entry of the present amendment.

Claims 1, 10, and 11 will have been amended herein.

Claims 12 to 16 will have been added herein.

Claims 1 and 10 to 15 are independent.

#### A. ALLOWABLE CLAIM

Applicants appreciate the Examiner's indication that Claim 9 would be allowable if written in independent form including all features of the base claim and intervening claims. Applicants have thus done so by submitting Claim 13 herein.

#### B. SPECIFICATION AMENDMENT

Applicants have noticed a typographical informality on page 13 of the present application and have herewith submitted an amendment to correct the minor error. No new matter has been added by this amendment.

#### C. SECTION 102 AND 103 REJECTIONS

Claims 1 to 6 and 11 stand rejected under 35 U.S.C. Section 102 as unpatentable over U.S. Patent No. 4,930,504 to Diamantopoulos et al. Claims 7, 8, and 10 stand rejected under 35 U.S.C. Section 103 as unpatentable over Diamantopoulos in view of U.S. Patent No. 5,860,967 to Zavislan et al. Applicants respectfully traverse these rejections.

Applicants assert that neither reference teaches or even suggests a "light emitting diode array to be **repeatably** positioned on a target area" (emphasis added) as recited in Applicants' claims. The so-called "positioning" disclosed in Diamantopoulos cannot reasonable be interpreted to be repeatable as that term is used in Applicants' specification. For example Applicants' specification describes applying "clinically repeatable dosages" of light (See e.g., page 8, line 31 to page

-8-

LS-001 6-7-2004 Office Action Response.doc

Application No. 10/613,608  
Attorney Docket No.: LS-001

PATENT

9, line 7) and "repeatable tissue dosing." Such applications of therapeutic light allow much greater control over the treatment than is contemplated or even possible using the prior art system.

Further, the Diamantopoulos reference does not even describe applying a sufficient amount of light to have a therapeutic effect. Therefore, Applicants respectfully request withdrawal of the Section 102 and 103 rejections based upon these distinctions alone.

Regardless of the above distinctions and solely to expedite prosecution, Applicants have made what was implicit in the claims, explicit by clarifying that that positioning of the array is repeatable from treatment to treatment and that a ranging mechanism is employed to further enhance the repeatability of Applicants system. Clearly, neither reference discloses any feature related to repeatability from treatment to treatment.

Note that even in the ocular arts, there is no teaching or suggestion that a ranging mechanism may be used for purposes of enhancing repeatability in subsequent treatments.

Regarding new claims 12 and 14 to 16, Applicants' new claims recite that an imaging device/system is used to facilitate the positioning of the array. Clearly, the references do not teach such a use of an imaging feature. In other words, Zavislan does not provide any suggestion that an imaging system may be used for positioning an array.

#### D. CONCLUSION

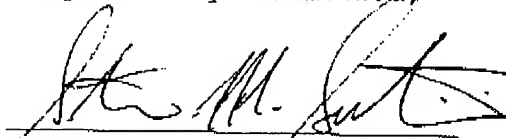
The Applicants believe all of the claims are in condition for allowance, and respectfully request reconsideration and allowance of the same. The Applicants have indicated the additional amount due regarding this amendment. If any other

Application No. 10/613,608  
Attorney Docket No.: LS-001

PATENT

fees are required, however, please charge Deposit Account No. 04-1696. The Applicants encourage the Examiner to telephone the Applicants' attorney should any issues remain.

Respectfully Submitted,



Steven M. Santisi, Esq.  
Registration No. 40,157  
Dugan & Dugan, PC  
Attorneys for Applicants  
(914) 332-9081

Dated: September 7, 2004  
Tarrytown, New York